

## Terms and Conditions

This Document, together with the Quotation (hereafter collectively called the Agreement) creates a binding contract to establish the Terms and Conditions under which Works are provided and to govern the relationship between the Parties.

### The Parties

- 1) **MGL Property Services Ltd.** (hereafter referred to as the 'Service Provider'). A company incorporated in England with a registered office at 5 Technology Park, Colindeep Lane, Colindale, NW9 6BX and a company registration number of 10781282. (Trading address is 126 New King's Road, London, SW6 4LZ)

And

- 2) The Person who, after receiving a Quotation from the Service Provider requests that Works are provided (hereafter referred to as the 'Client'). .

### Definitions and interpretations

Within this Agreement the following words shall have the given meaning

'Domestic Client' means a Client who is an individual, not acting in the capacity of a business that is having Works carried out on their residential property.

'Goods' means any item, product, part or component (including replacement parts)

'Materials' means the matter or substance from which a product is made or created.

'Person' means a natural person, corporate body, company, partnership, firm, association, organization, business trust, or society.

'Personnel' means all employees, consultants, agents, freelance, sub-contractors, tradesmen and engineers provided by the Service Provider to carry out the Works.

'Services' means work carried out by a person.

'Termination' means the ending of this Agreement.

'Working day' means 9am to 5pm on any day that the Bank of England is open for business.

'Works' means the Services, Products or Materials collectively.

Masculine shall include feminine and singular shall include plural, and vice versa unless expressly stated otherwise.

Headings are for convenience only and shall not affect or interfere with the construction, intention or interpretation of the Agreement

References to laws, regulations, and acts of parliament shall include all amendments and variations.

### General

1. These Terms and Conditions shall be implied into all agreements for the Service Provider to supply Services, Goods or Materials to the Client.
2. Pre-contractual statements or information given by the Service Provider or the Client shall not in itself create an agreement or obligation, however any statement or information which is relied on when providing a Quotation or deciding whether to enter into this Agreement shall be incorporated into the Agreement if an Agreement is subsequently entered into.

3. The Agreement will only begin and become binding when
  - a) The Client has requested a Quotation for some Works; and
  - b) The Service Provider has provided a Quotation for the Works (this constitutes an invitation to treat); and
  - c) The Client has made a request for the Service Provider to provide the Works stated in a Quotation (offer to contract); and
  - d) The Service Provider has given the Client an Order Confirmation (acceptance of the offer).
4. The Agreement may be for
  - a) Scheduled servicing, repairs, maintenance or improvements;
  - b) Emergency or urgent repairs;
  - c) Ongoing or regular maintenance;
5. The Agreement can only be amended or varied
  - a) by mutual consent;
  - b) to comply with Laws, regulations, codes or standards;
  - c) to comply with an order from a court of Law;
  - d) to correct any errors.
6. Where the Client is a Domestic Client the Parties acknowledge and accept that the Agreement is subject to consumer protection rights, including but not limited to right to prescribed information; rights for cancellations and refunds; rights in respect of Services being delivered to satisfactory standards; and warranties and guarantees that any Goods provided shall be fit for purpose, as described and without fault or defect.
7. The Agreement and the benefit and obligations it creates cannot be transferred, assigned or novated without the consent of the other Party, which will not be unreasonably withheld.

#### Quotations

8. Upon the request of the Client, the Service Provider may, but is not obliged to provide a Quotation to supply Works.
9. The Service Provider may need to visit the premises to assess the Works before a Quotation can be provided.
10. In the event that a visit or assessment is not possible (for example an emergency or remote location) then the Service Provider may offer a non-binding estimate of costs based on the information provided by the Client.
11. The Service Provider may assist the Client with determining what repairs, Materials or Goods may be appropriate but such assistance shall not be, nor shall it be interpreted as advice, any decisions as to what Works are requested shall be solely of the Clients.
12. In circumstances where a fault or cause cannot be established, identified or assessed without significant time or effort then the Service Provider may charge for any investigatory or assessment work providing such costs are agreed before the chargeable investigatory or assessment work begins.
13. All Quotations shall be valid for a period of 28 days after the date of issue unless otherwise agreed, where the Client does not accept a Quotation and enter into an Agreement for the Works to be provided within such period it shall be deemed to have no binding effect and no Agreement is entered into.
14. A Quotation shall become binding when an Agreement is entered into and both Parties may vary, amend or withdraw any Quotation at any time before an Order Confirmation is provided.
15. It is acknowledged that the Quotation contains certain elements which may be varied by the Service Provider after an Order Confirmation has been provided, if at the time the Quotation was given –
  - a) It was not possible to assess or ascertain the full extent of the Works or the number of man-hours or the cause of an issue or a requirement for replacement parts;
  - b) Inaccurate or false information was provided by the Client;
  - c) There are additional issues or requirements that were unknown or could not have reasonably have been known or foreseen; or
  - d) To correct a typographical, clerical or other error or omission.

16. Where a Quotation includes a timeframe or scheduled date for the Works to commence, such will always be considered to be an estimate; time is not of essence to this Agreement.
17. A Quotation may contain
  - a) The name and address of both Parties;
  - b) The Services and Goods to be provided, where the specification or detail is substantial it can be contained in a separate document;
  - c) Any estimated timeframe, deadline or stepped milestones;
  - d) The cost of the Works (which may be estimated);
  - e) The Terms of payment;
  - f) Any other information that is relevant or necessary.
18. The Client may request any Works stated in a Quotation by
  - a) indicating which Services/Goods are required and signing and returning the Quotation to the Service Provider; or
  - b) verbal or electronic communications (which may include any online systems or apps provided by the Service Provider for that purpose).
19. Upon receiving a request for Quoted Works the Service Provider shall issue an Order Confirmation to commence this Agreement. The Client should check all details within the Order Confirmation are correct and inform the Service Provider of any errors or inaccuracies, in the event that no such notice is given within 3 Working Days, or when the Works begin if sooner, then the Order Confirmation shall be deemed to be error free.

#### Cancellation

20. Where the Client is a Domestic Client and the agreement is entered into at a distance, under consumer law there shall be a 'Cooling Off Period' which shall begin when the Agreement commences and end after 14 days.
21. During the Cooling Off Period
  - a) The Service Provider is prohibited from providing or commencing Works during the Cooling Off Period except where
    - ii) The Works are for emergency or urgent repairs or maintenance; or
    - iii) the Client expressly requests that the Works are carried out within the Cooling Off Period by signing a waiver of the right to cancel or otherwise expressing their intention to waive the Right to Cancel in writing.
  - b) the Client may have right to cancel this Agreement and obtain a refund of all monies paid. In the interests of clarity, the right to cancel shall not apply
    - ii) when the Client is a business, or acting for or on behalf of a business;
    - iii) to Works for emergency or urgent repairs or maintenance;
    - iv) where a Quotation is provided at the Client's premises, which is left with the Client for consideration and an Agreement is entered into at a later date, irrespective of the method used to communicate acceptance of the Quotation and the Service Provider's Order Confirmation;
    - v) to each individual attendance or Works provided under an ongoing maintenance contract;
    - vi) to any non-standard Goods that are manufactured to meet the Client's specific requirements.
22. Where the right to cancel exists and the Client wishes to exercise that right, the Client must inform the Service Provider within the Cooling Off Period by written notice containing a clear and concise statement sent by post or email (if using post it is recommended obtaining proof of posting). The Client may, but is not obliged to use the form provided at the end of this Agreement.
23. Within 14 days of the Service Provider receiving a valid cancellation notice the Client will be reimbursed all money paid using the same method with which the payment was made.
24. If The Client cancels the Agreement within the Cooling Off Period and after requesting that the Works are commenced (waiving the right to cancel) but before the Works are completed, then the Service Provider shall be entitled to charge for the Works that were provided before the notice of cancellation is received. Any refund from money already paid shall be by the same method with which the payment was made within 14 days after receiving the Client's notice of cancellation and The Service Provider may demand payment of the value of any Works carried out before the notice of cancellation is received which exceeds any money paid in advance by the Client;

25. The right to cancel will be lost when the Works are completed.

#### The Works

26. The Works to be provided under this Agreement shall be for Services, Goods or Materials to build, install, update, servicing, repair and maintenance of land or property, its structure, utilities, fixtures and fittings as detailed within the Service Provider's website or published materials from time to time.
27. The Service Provider shall provide all Personnel, materials and equipment to perform the Works and all Goods requested by or agreed with the Client.
28. Where the Works fall within the CDM and the Service Provider is the sole contractor for the Works then the Service Provider shall discharge the duties of the Principal Designer and the Principal Contractor under CDM as appropriate or necessary.
29. Where the Client is a Domestic Client, the Service Provider shall discharge the duties of a Client under the CDM except where there is a written agreement between the Service Provider and the Client to the effect that the Client will accept and undertake the duties themselves.
30. Where the Works fall within the CDM and there is more than one contractor the Service Provider shall co-operate with the other contractor(s) with regard to compliance with the CDM and may, upon the request of the Client and agreement of the Service Provider, discharge the duties of the Principal Designer and Principal Contractor.
31. No Works will be provided
- until any advance payment that is required has been received;
  - until the 14 cancellation period has expired or been waived by the Client.
  - Until a health and safety risk assessment has been carried out, the extent of any assessment shall be at the discretion of the Service Provider. Such assessments may be carried out at any time before the Works begin, including by any Personnel providing the Services.
  - Until the Service Provider is satisfied that the Client understands their duties under the CDM (where the Client is not a Domestic Client or is a Domestic Client who has opted to undertake the duties of the Client themselves).
32. If during a health and safety risk assessment, or at any time whilst Services are being provided, a risk to health and safety is discovered that cannot be eliminated or mitigated or managed to an acceptable level the Service Provider shall withdraw from the Works or premises until such risk has been eliminated or becomes manageable.
33. Where the Works includes Goods or Materials, all Goods or Materials shall comply with all standards and specifications as stated by the manufacturer and required by law.
34. The Service Provider may delay ordering Goods that are required or needed by the Client until payment is received.
35. Title and ownership in the Goods and Materials shall pass to the Client upon delivery.
36. Unless otherwise stated, dimensions or other physical characteristics and mechanical, electrical or technical specifications are subject to normal commercial and manufacturing tolerances.
37. The Service Provider reserve the right to make any changes to any specification provided by the Client, which are required to conform with any applicable statutory, regulatory or EC requirements, industry standards.
38. Where the Goods are supplied which are different to specifications or manufacturer stated by the Client the Service Provider warrants the Goods supplied shall not materially affect the quality or performance.
39. The Client shall ensure that all warnings, labels, instructions, manuals and other information in respect of the Goods or their use provided by the Personnel or a manufacturer shall be observed and adhered to.

#### Obligations

40. The Service Provider

- a) shall use reasonable skill and care in performing the Works;
- b) shall provide the Works in full compliance with all applicable Laws, Regulation, Orders, enactments, industry standards, codes or requirements;
- c) shall provide all Personnel, materials and equipment required or necessary to complete the Works and fulfil the contractual obligations;
- d) shall ensure all Personnel have acquired and maintained the knowledge, qualifications and registrations that are necessary and required to perform the Works;
- e) Shall carry out the Works in such a way that eliminates or manages any risk to health and safety; including an understanding of the how health and safety is managed throughout
- f) shall inform the Client of any event, occurrence or situation that arises during the Works that was not known or unforeseen when the Agreement was entered into that will or has the potential to materially affect any obligation or impede the ability to provide the Works in a timely manner, in order that any decision can be taken or remedial action can sanctioned and agreed.
- g) shall hold and maintain all insurances required by Law and any additional protection considered necessary or desirable. Evidence of the insurance shall be provided to the Client upon request.
- h) may subcontract any of its obligations under the Agreement to any third party however the Service Provider shall remain liable to the Client for the subcontracted obligations as if they were provided by the Service Provider themselves.

41. The Client

- a) shall keep the Service Provider up to date and must inform the Service Provider of any changes to the information already provided;
- b) shall be responsible for procuring any third party co-operation or permission required for the provision of the Services;
- c) shall arrange and provide access to the premises or site where the Works are to be to be performed;
- d) shall clear the area where the Works are to be performed, of all personal items.
- e) shall disclose any contract, agreement, arrangement or understanding with any third party that may affect, limit or restrict the Service Providers ability or right to perform the Works.
- f) Shall make available to the Personnel, any toilet and washroom facilities within the premises.
- g) Warrants to having the authority and capacity to appoint the Service Provider to perform the Works and to having the means and resources to ensure that the Service Provider is remunerated for the Works provided.

Fees and Charges

42. In consideration for providing the Works, the Service Provider shall be entitled to charge, and the Client obliged to pay all fees and charges which become due under this Agreement.

43. The Fees may be -

- a) an hourly rate – where the length of time taken to provide the Services shall be recorded and charged accordingly, plus the cost of any Materials or Goods.
- b) a fixed price – where Work carried out at an agreed price which includes the costs of Goods or Materials.
- c) Periodic payments where Services are to be provided on a regular, periodic or ongoing basis, plus the cost of any Goods or Materials provided during the Agreement.
- d) Any additional fees which are not known at the time a Quotation is provided which may include, but not limited to
  - i) The cost of any replacement parts, Goods or Materials;
  - ii) Travel time where the replacement parts, Goods or Materials have to be collected locally by the Personnel;
  - iii) Additional work that is necessary to achieve a desired outcome but the additional work is not discovered until the services have commenced;
  - iv) Parking and congestion fee charges;
  - v) Any third party fees and charges, including legal fees and court costs that are or become necessary to enforce the terms and conditions of this Agreement;
  - vi) any other arrangement as agreed between the Parties.

44. Fees may become due in advance of any Works commencing; or in instalments or periodic payments; or upon completion of the Works; or any combination or other arrangements which the Parties wish to make,

45. Where fees and charges are subject to VAT then the VAT at the applicable rate shall be added to the fees and charges.
46. In the event that any fee or charge is not paid on or before the due date the Service Provider may –
  - a) Withhold or suspend providing the Works.
  - b) Cancel an order for Goods made by the Service Provider that have not been delivered;
  - c) Add interest at 8% above the Bank of England base rate.
  - d) Charge a fee equal to the cost of any additional costs incurred in managing or recovering the fees due.
  - e) Where the Client is acting in the capacity of a business, charge late payment compensation in accordance with the Late Payment of Commercial Debts (interest) Regulations 1999.

#### Termination

47. This Agreement may be Terminated
  - a) Upon completion of a specific task, project or assignment stated within a Quotation;
  - b) Upon a fixed or minimum period expiring;
  - c) For any material breach of this Agreement that is not, or cannot be rectified and remedied within 7 days, unless a shorter period is provided for within this Agreement or the circumstances warrant a shorter period.
  - d) By the Client if exercising a Right to Cancel where such right exists.
  - e) By either Party giving notice of not less than 1 month when Services are provided on an ongoing basis and any minimum period has expired.
  - f) Should either Party become incapable of performing their obligations due to death, incapacity, bankruptcy, insolvency or winding up.

#### Effects of Termination

48. Both parties shall be relieved of their contractual obligations however Termination shall not affect or reduce any accrued right, obligations or benefits up to the date of Termination.
49. If Termination is as a result of a breach of this Agreement by the Client, all fees and charges that would have become due had the Agreement been fully performed shall become due immediately.
50. If Termination is as a result of a breach of this Agreement by the Service Provider, all fees and charges for Works that have been provided up to the point of Termination shall be payable and the Client shall receive a refund of all monies paid in advance for any undelivered Services.

#### Personal data

51. The Client's details, information, data and records will be processed and stored in compliance with the Data Protection Act 1988 and the Service Provider shall not share, disclose, distribute or sell personal data unless it is necessary to fulfil the contractual obligations under this Agreement; or it is required to do so by Law or by an order of a Court; or under the instruction of or with the consent of the Client.

#### Complaints and disputes

52. In the event that the Client is dissatisfied with any aspect of the Works they should raise the matter in writing with sufficient detail to enable the Service Provider to understand the issues, in addition to the remedy being sought.
53. The Service Provider shall endeavour to respond to a complaint within 7 days, if the Service Provider needs more than 7 days to investigate the complaint, or to gather all the relevant information then they shall advise the Client when they anticipate providing a response, which shall not be more than 28 day.
54. Where a complaint is accepted, the Service Provider shall offer to put matters right by way of repeating all or part of the Services without charge or a reduction in the fees.
55. Where a complaint is rejected or the remedy required by the Client is excessive or unreasonable the Service Provider shall inform the Client within 7 days and include the reasons why that decision was made.
56. The Parties shall attempt in good faith to resolve any disputed matters by negotiation between themselves or their appointed representatives, however, if a remedy or resolution cannot be agreed the Parties may agree to

mediation or arbitration by a trade association who offers such services and the Service Provider is a registered member, Ombudsman or other independent professional agreed by the Parties. The Parties shall, unless agreed otherwise, share the cost of mediation or arbitration. 'Complaints Where we cannot resolve a complaint using our own complaints procedure, as a Which? Trusted trader we use Dispute Resolution Ombudsman for dispute resolution. In the unlikely event of a complaint arising and you wish to refer the complaint to them please contact 0333 241 3209 or via their website <http://www.disputeresolutionombudsman.org/which-trusted-traders-partnership/> '

#### Liabilities and indemnities

57. Nothing in this Agreement will limit or exclude the Service Provider's liability for death or personal injury resulting from negligence; for fraud or fraudulent misrepresentation; or in any other way that is not permitted under applicable law.
58. Subject to paragraph 57 the Service Provider shall not be liable to the other for damages or loss (including special, indirect, consequential, exemplary and punitive) of business, opportunity, goodwill, reputation, profits, income, revenue, use, production or anticipated savings and under no circumstances shall either Parties liability exceed the financial value of this Agreement or an amount that would be inconsistent with, or exceeds any rights in law.
59. The Service Provider shall not be liable under this Agreement, and the Client shall fully and unconditionally indemnify the Service Provider against all and every type of expenses, costs, losses or damages incurred, received or suffered whether in law, statute, equity, contract or tort resulting from -
  - a) Any errors, mistakes or incorrect information or detail provided by the Client;
  - b) Any delay in the Client providing detail, information or feedback which result in a delay in the Works being provided or delivered;
  - c) Any personal items of the client that are not removed or adequately protected by the Client;
  - d) Use or misuse of Goods or Materials, including but not limited to
    - i. not in accordance with a manufactures or the Service Providers instruction;
    - ii. inconsistent with any warning or notice issued in relation to the Goods or their use;
    - iii. beyond stated limits or restrictions;
    - iv. beyond intended purpose.
  - e) Any changes, modifications or attempted repair or remedy by the Client or any third party on their behalf;
  - f) Anything that could not have been reasonably foreseen, predicted, avoided or prevented;
  - g) Anything beyond the Service Provider's reasonable control. For the avoidance of doubt any delays or postponement of Works due to events such as a failure of suppliers or couriers to deliver ordered Goods, power failures , interruptions to the flow of data over the internet, telecommunications or network failure, sickness of Personnel, adverse and extreme weather, traffic congestion or vehicle breakdown and the like, are all considered to be beyond the Service Providers reasonable control;
  - h) conditions which do not arise as a result of a breach of a duty of care or negligence;
  - i) war, strikes, governmental restrictions, fires, floods, or acts of God.

#### Notices

60. Any notices necessary or required under the provisions of this agreement shall be served by hand or by way of recorded delivery mail or courier or electronic mail. Notices shall be deemed to have been delivered immediately if by hand, upon signing if by recorded delivery or courier, or 1 hour after sending an electronic mail if the electronic mail has not been returned undelivered.

#### Law and jurisdiction

61. Unless expressly stated a person or company who is not party to the Agreement shall not have any rights, benefits or obligations under this Guarantee or any part of it, under the Contract (Rights of Third Parties) Act 1999.
62. No forbearance, indulgence, relaxing, inaction or delay in either party enforcing performance, its contractual or legal rights shall prejudice, restrict or otherwise adversely affect the rights of that party to enforce its rights at a later date or later breach.

63. If any provision of this agreement is, or shall become invalid or unenforceable in the opinion of a court of Law it shall in no way affect or diminish the remainder of the agreement and it shall remain valid and enforceable to the fullest extent permitted by Law. Both parties shall seek and agree an alternative provision that is valid and enforceable and reflects the intent of the original term.
64. The validity, construction and performance of this agreement shall be governed by the Law and subject to the jurisdiction of the courts of England and Wales.



### **Cancellation form**

You can use this form to inform the Service Provider that you wish to exercise your rights to cancel this Agreement in accordance with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

**I hereby give notice that I cancel my contract for the following Services -  
[insert details of Services]**

**Ordered on [insert date]**

**Name of consumer:**

**Address of consumer;**

**Signature of consumer (if notified using form printed on paper):**

**Date:**